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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,914	12/03/2003	Norbert Fluhr	20020/10010	4714

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EXAMINER

JOHNSON, STEPHEN

ART UNIT

PAPER NUMBER

3641

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/726,914

Applicant(s)

FLUHR, NORBERT

Examiner

Stephen M. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☒ Claim(s) 17-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. The drawings are objected to because numerical indicator 17 (para [0026]). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the feeler and indicator element that constructed as a single part (claim 7) and the single part extending through an elastic shaft (claim 7) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

**A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application.** The objection to the drawings will not be held in abeyance.

3. The disclosure is objected to because of the following informalities: In paragraph [0026], shaft 117 should be shaft 17.

Appropriate correction is required.

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim language directed to the feeler and indicator element are constructed as a single part (claim 7) and the single part extends through an elastic shaft (claim 7) are not supported by the written disclosure.
5. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 10, the phrase "a cartridge" should be (said cartridge) if the previously

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claimed cartridge is intended. In claim 7, line 8, what the word "it" is intended to correspond to is indefinite.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Bamberger.

Bamberger discloses a barrel for a firearm comprising:

- a) a locking projection; 2a
- b) a longitudinal drill hole; 5
- c) a cartridge chamber; 3b
- d) a notch; 7
- e) an elastic unitary loading indicator; 9, 10
- f) a feeler; and 10 (bottom)
- g) an indicator element. 9

8. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Krag.

Krag discloses a loading indicator comprising:

- a) a barrel; B
- b) a cartridge chamber; B (rear portion)
- c) an elastic shaft; U3
- d) a compartment at the rear of the barrel; see fig. 36
- e) a feeler portion; and u

f) an indicator element.

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9. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Schulz.

Schulz discloses a loading indicator comprising:

a) a barrel;

see fig. 1

b) a cartridge chamber;

see fig. 1

c) an elastic shaft;

b

d) a compartment at the rear of the barrel;

contains a, b (fig. 1)

e) a feeler portion; and

a

f) an indicator element.

d

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schulz in view of either Wicklund or da Silveira.

Schulz applies as previously recited. However, undisclosed is a portion of the indicator element colored to contrast. Wicklund (col. 3, lines 26-30) and da Silveira (claim 3) each teach a portion of the indicator element colored to contrast. Applicant is selecting and assembling a coloring to the indicator element for the same purpose as disclosed in each of these references (aided visibility of the indicator element) in an analogous art setting. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the

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teachings of Wicklund or da Silveira to the Schulz loading indicator and have a loading indicator with a colored indicator element.

12. Claims 3-4 and 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

13. Claims 7-12 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

14. Claims 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Luger, Skandera, Hirsh, and Flaischlen disclose other state of the art indicators.

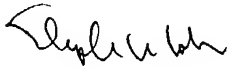
16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 703-306-4158. The examiner can normally be reached on Tuesday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703-306-4198. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4177.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326. The fax phone number for after final communications is (703) 872-9327.

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STEPHEN M. JOHNSON  
PRIMARY EXAMINER

Stephen M. Johnson  
Primary Examiner  
Art Unit 3641

SMJ